1 2 3 4 5	EDMUND G. Brown Jr. Attorney General of California ARTHUR D. TAGGART Supervising Deputy Attorney General KAREN R. DENVIR Deputy Attorney General State Bar No. 197268 1300 I Street, Suite 125 P.O. Box 944255 Sacramento, CA 94244-2550 Telephone: (916) 324-5333 Facsimile: (916) 327-8643
7	Attorneys for Complainant  BEFORE THE
,8 9	BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS
10	STATE OF CALIFORNIA
11	In the Matter of the Accusation Against: Case No. 2010 - 456
12	DAVID ROY NICHOLAS A C C U S A T I O N
13	4001 Harlam Ranch Clovis, CA 93619
14	Registered Nurse License No. 598027
15	Respondent.
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17	Louise R. Bailey, M.Ed., RN (Complainant) alleges
18	<u>PARTIES</u>
19	1. Complainant brings this Accusation solely in her official capacity as the Interim
20	Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs.
21	2. On or about April 16, 2002, the Board of Registered Nursing issued Registered Nurse
22	License Number 598027 to David Roy Nicholas (Respondent). The Registered Nurse License
23	was in full force and effect at all times relevant to the charges brought herein and will expire on
24	October 31, 2011, unless renewed.
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#### STATUTORY PROVISIONS

- 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
- 4. Code section 2761(a) states, in pertinent part, that the Board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for unprofessional conduct.
- 5. Code section 2764 provides, in pertinent part, that the lapsing of license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.
- 6. Code section 118, subdivision (b), provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

## COST RECOVERY

7. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

## **BACKGROUND INFORMATION**

8. On or about January 30, 2008, while on duty as a registered nurse at Saint Agnes Medical Center, located in Fresno, California, fellow co-worker Eric Colombini (Colombini), who was off duty, came into the emergency room with a wound to one of his hands that required suturing. Colombini did not register as a patient. Respondent irrigated and performed the suturing procedure without an order from a physician or surpervion by a physician.

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### FIRST CAUSE FOR DISCIPLINE

### (Unprofessional Conduct)

9. Respondent is subject to discipline under Code section 2761(a), on the grounds of unprofessional conduct, in that on or about January 30, 2008, while a licensed registered nurse at Saint Agnes Medical Center, located in Fresno, California, Respondent practiced outside the scope of practice of a registered nurse by performing a suturing procedure on Colombini's hand.

### **PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- Revoking or suspending Registered Nurse License Number 598027, issued to David
   Roy Nicholas;
- 2. Ordering David Roy Nicholas to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,
  - 3. Taking such other and further action as deemed necessary and proper.

DATED: 3/8/10

LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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